IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2007

CORAM

THE HON'BLE MR. JUSTICE S.MANIKUMAR

W.P.No.24226 of 2007 &
M.P.Nos.1 & 2 of 2007

Thiru S.Ramasamy
Proprietor of
M/s.Lakshmi Saw Mill
Pondy Main road
Koliyanur Post
villupuram Taluk & District ... Petitioner

Vs.

1. Forest Circle Officer
   Villupuram Forest Circle
   S.P.T.Lodge
   Hospital road,
   Villupuram

2. General Manager
   District Industries Centre,
   Villupuram

3. District Forest Officer
   Villupuram Forest Division
   Villupuram District ... Respondents

Petition filed under Article 226 of the constitution of India to issue a writ of mandamus forbearing the respondents or their men or agents or any other person or persons acting on their behalf from sealing the petitioner's Saw Mill, namely, M/s.Lakshmi Saw Mill situate at Pondy Main Road, Koliyanur Post, Villupuram District

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For Petitioner ... Mr.A.Thamizharasan
For Respondents ... Mr.S.Rajasekar, AGP

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ORDER

The petitioner has sought for a Mandamus, forbearing the respondents or their men from sealing his Saw Mill, namely, M/s.Lakshmi Saw Mill situated at Pondy Main Road, Koliyanur Post, Villupuram Taluk and District.

2. It is the case of the petitioner that he has got provisional registration to set up a Saw Mill from the Industries and Commerce Department dated 22.7.2005 and thereafter on payment of licence fee to the Panchayat Union, Koliyanur, he obtained licence to set up a Saw Mill for the year 2006-1007. The Block Development Officer, Panchayat Union, Koliyanur, Vellupuram District by his order dated 15.3.2007 granted permission to run his Saw Mill. When the petitioner was running the Saw Mill, third respondent in a prejudiced manner started interfering with the petitioner's right to run the Saw Mill on the ground that no prior permission has been obtained from the Forest department.

3. It is also the case of the petitioner that he has not been given sufficient time to approach the Central Empowered Committee to get their approval.

4. A supplementary affidavit dated 30.7.2007 was filed by the petitioner in this Court to the effect that first respondent has served a notice dated 13.12.2006 to his son, which was not brought to his notice. On this day, learned counsel for the petitioner produced a xerox copy of the letter dated 14.12.2006 sent by the Member Secretary, Central Empowered Committee, informing him that the application received by the Central Empowered Committee has been forwarded to the Principal Chief Conservator of Forests, Government of Tamil Nadu, Chennai for examination and recommendation for grant of permit.

5. Placing reliance on the provisional registration dated 22.7.2005 granted by the General Manager, District Industries Centre, Villupuram, office of the Industries and Commerce Department as well as the permission granted by the Block Development Officer, Koliyanur in his proceedings dated 15.3.2007, permitting the petitioner to set up the Saw Mill and to put up a construction, learned counsel for the petitioner submitted that since the above authorities have already granted permission to set up a Saw Mill, it is not open to the forest Department officials to insist for prior approval from them to start the Saw Mill. He further submitted that since the application sent to the Central Empowered Committee is pending consideration, the respondents 1 and 3 or their subordinates

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have no right to interfere with the running of his Saw Mill or sealing the same and it is violative of principles of natural justice and also contrary to the orders of permission referred to earlier. He submitted that this Court may relax the condition and appropriate orders may be passed so as to enable the petitioner to run the Saw Mill.

6. The respondents in their counter affidavit have submitted that pursuant to the directions of the Supreme court in W.P.(C) No.202 of 1995, Government of Tamil Nadu issued G.O.Ms.No.355, dated 19.8.1998 to regulate the functioning of Saw Mills and the following procedure has been laid down:

> "i). All existing saw mills should be registered with the respective District/Divisional Forest Officer concerned, giving full details of ownership, capacity, source of timber etc.
> ii). Any fresh Saw mills to be set up should be required to take the prior approval of the District/Divisional Forest Officer before being set up.
> Iii). Saw Mills which are existing near any forest area should be asked to relocate if the District/Divisional Forest Officer is of the view that it is likely to harm directly or indirectly in the preservation of the forest in the area.
> iv). The District/Divisional Forest Officers should conduct periodic and surprise checks to find out whether any illicit timber is being purchased and used by the saw mills concerned and necessary prosecution pursued in case any such activity is noticed."

7. The respondents have further submitted that the Apex Court in I.A.No.566 of 2000 in W.P.(C) No.202 of 1995 by its order dated 30.10.2002 ordered to close down all unlincenced saw mills, veneer and plywood industry and to stop giving permission to the above industry and the operative portion of the order as extracted in the counter affidavit is as follows:

> "No State or Union Territory shall permit any unlincenced saw mills, veneer and plywood industry without prior permission of Central Empowered Committee. The Chief Secretary of each state will ensure strict compliance of this direction. There shall also be no relaxation of rules with regard to the grant of licence without previous concurrent of Central Empowered Committee."

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8 It is further submitted that pursuant to the orders of the Supreme Court as well as the direction of the Government in G.O.Ms.No.355 dated 19.8.1997, the field staff of Villupuram Range have collected details of saw mills functioning in the jurisdiction of Villupuram range and all the Saw Mill Owners were intimated through letter No.157/04 dated 9.6.2006 to register the saw mils with Forest Department. The Saw Mill owners were also supplied with copy of G.O.Ms.No.355, Environment and Forests (FR III) Department, dated 19.8.1997 and letter dated 12.8.2004 of the Principal Chief Conservator of Forest, Chennai.

9. The respondents have further submitted that all the saw mill owners were requested by letter dated 14.8.2006 to produce all the documents related to saw mills like license, blue print, NOC from Health Department and Fire Department, tax paid to local bodies etc. to verify the genuiness of saw mills as per the orders of the Supreme Court.

10. In so far as the Saw Mill owned by the petitioner, on verification of the documents, following violations were noticed:

"1. This saw mill is functioning without any valid licence from any other department
2. The owner himself has accepted in his correspondence with the Central Empowered Committee, constituted by the Hon'ble Supreme Court of India, that his saw mill is functioning only from 20.11.2002, which is contrary to the Apex Court order dated 30.10.2002.
3. There is no prior permission from Central Empowered Committee to run the saw mill as directed by the Hon'ble Supreme Court of India.
4. There is no prior approval from Forest Department as per G.O.Ms.No.355 dated 19.8.1997.

11. The respondents have further submitted in their counter affidavit that with regard to opening of new saw mill, no other Department has the authority to issue licence. As regards the contention of the petitioner that he has not been served with notice, seeking for prior approval from the Forest Department and Central Empowered Committee, respondents 1 and 3, in paragraph 9 of the affidavit, have stated that the petitioner had been frequently informed. Letters dated 5.6.2006 and 9.6.2006 were sent through ordinary post, that a letter dated 17.8.2006 was acknowledged by the petitioner's son dated 18.8.2006, and registered letters dated 13.12.2006 and 7.7.2007 were acknowledged by the petitioner. It is further submitted that in all these communications, the petitioner was specifically instructed to register the Saw Mill with the Forest

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Department and get the approval from the Central Empowered Committee. Inspite of the communications, the petitioner has failed to take appropriate action and did not produce the relevant documents. Hence the respondents 1 and 3 have prayed for dismissal of the Writ Petition.

12. Heard the counsel for the parties and perused the materials on record.

13. In compliance with the directions of the Supreme Court order dated 12.12.2006, the State Government have issued directions in G.O.Ms.No.355, Environment and Forests (FR III) Department dated 19.8.1997. As per the Government Order, all the existing Saw Mills should be registered with the respective District/Divisional Forest officers, giving full details of ownership, capacity, source of timber etc. Further, any fresh saw mill to be established is required to take the prior approval of the District/ Divisional Forest Officer. The Supreme Court in its order dated 30.10.2002 in I.A.No.566 in W.P.(Civil) No.202 of 1995, directed closure of all such unlicensed saw mills, Veneer and Plywood industry and to stop giving permission to above Industry and further made it clear that no State Government or Union Territory will permit the opening of saw mills, Veneer and Plywood industry without prior permission of the Central Empowered Committee. The Chief Secretary of each State has been directed to ensure strict compliance of the direction and there shall be no relaxation of rules with regard to the grant of licence without previous concurrence of the Central Empowered Committee.

14. Pleadings disclose that though the petitioner has been served through ordinary post, in person, as well as through registered post, he has failed to take any action and register with the Forest Department. It is also explicit from the averments made by the petitioner that the Saw Mill has been started only in the year 2005 and that provisional registration of the Industries and Commerce Department has been granted on 22.7.2005 and thereafter the petitioner has obtained permission from the Block Development Officer, Panchayat Union, Koliyanur on 15.3.2007, which is much later than the Government order and the directions of the Supreme Court, which came to be passed on 30.12.2006 directing closure of any unlicensed saw mill. As regards the violation, it is evident from the counter affidavit that the petitioner's saw mill is functioning without any licence from any the competent department. As per the direction of the Supreme Court, no State Government or Union Territory will permit the opening of saw mills, Veneer and Plywood industry without prior permission of the Central Empowered Committee and the Chief Secretary of each State has been directed to ensure strict compliance of the direction and there shall be no relaxation of rules with regard to the grant of licence without

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previous concurrence of the Central Empowered Committee. The averments of the petitioner and the documents enclosed in the typed set of papers clearly prove that the petitioner has started the Saw Mill in the year 2005 and failed to obtain prior permission from the Forest Department as well as the Central Empowered committee. When the orders of the Supreme Court are enforced by the State Government for closure of Saw Mill, the same cannot be said as arbitrary. In my considered view, the action of the respondents is nothing but strict implementation of the directions of the Supreme Court. I do not find any merit in the Writ Petition. No mandamus can be issued restraining the authorities from enforcing the law of the land as declared by the Supreme Court.

15. In the result, the Writ Petition deserves to be dismissed. However, it is open to the petitioner to approach the Central Empowered Committee for early disposal of his application and register himself with the Forest Department for obtaining proper licence to run the Saw Mill.

16. The interim order already granted by this court is vacated and the connected M.Ps. are also dismissed.

Ajr

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. Forest Circle Officer, Villupuram Forest Circle
   S.P.T.Lodge, Hospital road, Villupuram

2. The General Manager, District Industries Centre,
   Villupuram

3. The District Forest Officer, Villupuram Forest Division
   Villupuram District

+ 1 cc to Mr. A. Thamizharasan, Advocate SR No.50415
+ 1 cc to the Spl Govt Pleader High Court, Madras SR No. 50580

KS(CO)
SR/3.1.2008

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